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Attorneys for Defendants

the Honorable Mark E. Recktenwald, the Honorable Paula A. Nakayama,
the Honorable Sabrina S. McKenna, the Honorable Michael D. Wilson,
the Honorable Katherine S. Leonard, the Supreme Court of the State of Hawaii,
The Office of Disciplinary Counsel of the Hawaii Supreme Court,
The Disciplinary Board of the Hawaii Supreme Court,
The Lawyers Fund for Client Protection of the Hawaii Supreme Court,
Bradley R. Tamm, Clifford L. Nakea, Roy F. Hughes,
Charlene M. Norris, and Andrea R. Sink

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

GARY VICTOR DUBIN et al.,

Plaintiffs,

vs.

THE SUPREME COURT OF THE
STATE OF HAWAII, et al.

Defendants.

CV 21-00175 JAO-KJM

**DEFENDANTS' MOTION TO
DISMISS WITH PREJUDICE
VERIFIED COMPLAINT FOR
DECLARATORY RELIEF AND FOR
ACTUAL AND PUNITIVE CIVIL
RIGHTS DAMAGES;
MEMORANDUM IN SUPPORT;
DECLARATION OF ROBYN B.
CHUN; EXHIBITS "A" THROUGH
"E"; CERTIFICATE OF
COMPLIANCE WITH WORD
LIMITATIONS; CERTIFICATE OF
SERVICE**

**DEFENDANTS’ MOTION TO DISMISS WITH PREJUDICE
VERIFIED COMPLAINT FOR DECLARATORY RELIEF
AND FOR ACTUAL AND PUNITIVE CIVIL RIGHTS DAMAGES**

Defendants the Supreme Court of the State of Hawaii, Chief Justice
Mark E. Recktenwald, Associate Justices Paula A. Nakayama, Sabrina S.
McKenna, Michael D. Wilson and Katherine S. Leonard, the Office of Disciplinary
Counsel of the Hawaii Supreme Court, the Disciplinary Board of the Hawaii
Supreme Court, Bradley R. Tamm, Clifford L. Nakea, Roy F. Hughes,
Charlene M. Norris, and Andrea R. Sink (collectively, “Defendants”), through the
Attorney General for the State of Hawai‘i and her undersigned deputies, seek an
order dismissing the Verified Complaint for Declaratory Relief and for Actual and
Punitive Civil Rights Damages, filed herein on April 9, 2021 (“Complaint”) with
prejudice on the grounds that: (i) this Court lacks jurisdiction to decide Plaintiffs’
claims; (ii) the 11th Amendment and sovereign immunity doctrine bar Plaintiffs’
claims; and (iii) Plaintiffs’ claims against the Justices and individual Disciplinary
Defendants in their individual capacity are barred by judicial or quasi-judicial
immunity.

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This motion is brought pursuant to Rules 12(b)(1) and 12(b)(6), Fed. R. Civ. P. and is based on the Memorandum, Declaration and Exhibits attached hereto, the records and files herein and such further argument as may be made at the hearing on this motion.

Dated: Honolulu, Hawai‘i, June 17, 2021.

CLARE E. CONNORS
Attorney General, State of Hawaii

/s/ Robyn B. Chun
PATRICIA OHARA
ROBYN B. CHUN
Deputy Attorneys General
Attorneys for Defendants